

Receipts which are not in any way reasonably connected with or attributable to the renting, leasing or letting of rooms for use as living quarters or for sleeping or housekeeping accommodations are not subject to the Hotel Operators' Occupation Tax. See 86 Ill. Adm. Code 480.101(b)(6). (This is a GIL).

February 25, 2002

Dear Xxxxx:

This is in response to your letter dated November 25, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200>.

In your letter you stated and made inquiry as follows:

The County Board has asked me to write for your opinion and/or advice on the following situation. There are several hunting outfitters located within our county who have their clients staying in lodging places on the site of the hunting operation. Our board feels they are subject to county and state hotel/motel tax because of the lodging provided on site. The outfitters insist they are not subject to it because the lodging is free and the fee charged to the hunters is for services other than lodging. Please advise as to your opinion regarding whether these types of operations are subject to state and local hotel/motel tax, how to determine how much to base the tax on, and how to go about the process of imposing the tax. You may respond to my office at the address listed above.

Thank you for your consideration herein.

We regret that we cannot give an opinion as to whether hunting outfitters in your county would incur Hotel Operators' Occupation Tax on any of their business receipts as insufficient information has been provided in your letter as to the nature of the services provided by such businesses. However, we have provided below general information regarding the application of Hotel Operators' Occupation Tax on gross receipts, which may help you in advising the County Board as to the responsibility, if any, such businesses in your county may have with regards to the Hotel Operators' Occupation Tax.

The Hotel Operators' Occupation Tax Act (35 ILCS 145/1 et seq.) imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel. The tax is imposed at a rate of 5% of 94% of the gross rental receipts from the renting, leasing or letting of such rooms. An additional tax is also imposed at a rate of 1% of 94% of such gross rental receipts. Proceeds from the renting, leasing or letting to permanent residents of a hotel are excluded from the gross receipts

upon which the tax is imposed. A permanent resident is a person who occupies or has the right to occupy a room for at least thirty consecutive days. Please find enclosed for your reference copies of 86 Ill. Adm. Code 480.101 and 480.105.

The Hotel Operators' Occupation Tax is imposed on receipts from renting rooms for living quarters or for sleeping or housekeeping accommodations. Therefore, other receipts which are not in any way reasonably connected with or attributable to the renting, leasing or letting of rooms for use as living quarters or for sleeping or housekeeping accommodations are not subject to the Hotel Operators' Occupation Tax. See 86 Ill. Adm. Code 480.101(b)(6) and 480.105. Additionally, the tax does not apply to receipts from the renting of rooms for other purposes, such as meeting rooms or banquet rooms. See Section 480.101(b)(1). Properly kept books and records, however, must support the exemption for such nontaxable receipts. See enclosed copy of 86 Ill. Adm. Code 480.115. Every hotel operator must keep separate books or records showing rents and occupancies taxable under the Hotel Operators' Occupation Tax Act separate from his transactions that are not taxable under the Act. If an operator fails to keep separate books or records, the operator will be liable for Hotel Operators' Occupation Tax imposed on the entire proceeds from the hotel. See Section 480.115(a).

The Illinois Department of Revenue does not administer or enforce County Hotel Operators' Occupation Taxes, and therefore cannot give an opinion as to whether the hunting outfitters in your county would be subject to any county hotel tax. We refer you to 55 ILCS 5/5-1030 for information on a county's ability by ordinance to impose a tax on persons engaged in such county in the business of renting, leasing or letting rooms in a hotel.

I hope this information has been helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales and use tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Sincerely,

Dana Deen Kinion
Associate Counsel

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